

B
93

PTO/SB/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/393,482
	Filing Date	September 10, 1999
	First Named Inventor	Jerry H. Chisnell
	Art Unit	3676
	Examiner Name	Carlos Lugo
Total Number of Pages in This Submission	Attorney Docket Number	FTP139A US

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<div>Remarks Communication Copy of Postcard for Request for Rehearing Copy of Request for Rehearing filed on 8/16/2004 Postcard</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	VanOphem & VanOphem, P.C.		
Signature			
Printed name	Remy J. VanOphem		
Date	October 21, 2004	Reg. No.	27053

CERTIFICATE OF TRANSMISSION/MAILING	
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:	
Signature	
Typed or printed name	Remy J. VanOphem
Date	October 21, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2005

Effective 10/01/2004. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 0

Complete if Known

Application Number	09/393,482
Filing Date	September 10, 1999
First Named Inventor	Jerry H. Chisnell
Examiner Name	Carlos Lugo
Art Unit	3676
Attorney Docket No.	FTP139A US

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☒ None

☒ Deposit Account:

Deposit Account Number: 22-0212
Deposit Account Name: VanOphem & VanOphem, P.C.

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$) 0

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below		Fee Paid
Total Claims		-20** =		X		
Independent Claims		-3** =		X		
Multiple Dependent Claims						

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	88	2201	44	Independent claims in excess of 3
1203	300	2203	150	Multiple dependent claim, if not paid
1204	88	2204	44	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	430	2252	215	Extension for reply within second month	
1253	980	2253	490	Extension for reply within third month	
1254	1,530	2254	765	Extension for reply within fourth month	
1255	2,080	2255	1,040	Extension for reply within fifth month	
1401	340	2401	170	Notice of Appeal	
1402	340	2402	170	Filing a brief in support of an appeal	
1403	300	2403	150	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,370	2453	685	Petition to revive - unintentional	
1501	1,370	2501	685	Utility issue fee (or reissue)	
1502	490	2502	245	Design issue fee	
1503	660	2503	330	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 0

SUBMITTED BY

(Complete (if applicable))

Name (Print/Type)	Remy J. VanOphem	Registration No. (Attorney/Agent)	27053	Telephone	586-739-7445
Signature		Date	October 21, 2004		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Serial No. 09/393,482

Group Art Unit No. 3677

Filing Date: September 10, 1999

Examiner: Carlos Lugo

Inventor: Jerry H. Chisnell

Title: Reinforcement for a Hose Coupling

Communication

Commissioner for Patents
Attn: Examiner Carlos Lugo
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This communication is with respect to the premature issue of a Notice of Allowance dated October 1, 2004 for the above-identified patent application. Enclosed herewith is a copy of the Request for Rehearing of the Board's decision, timely filed on August 16, 2004, also enclosed herewith is a copy of the postcard acknowledging receipt of the filing.

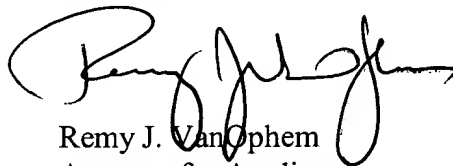
Following a discussion with the clerk from the Board of Appeals Office regarding this matter, it is respectfully requested that the premature Notice of Allowance be withdrawn and that the file be returned to the Board of Appeals for purposes of issuing a decision with respect to the Petition for Rehearing. It is also respectfully requested that no

further prosecution be considered until such time the Board of Appeals issues its decision on the Request for Rehearing.

If the Examiner has any questions with respect to any matter now of record, Applicant's attorney may be reached at (586) 739-7445.

Respectfully submitted,

VANOPHEM & VANOPHEM, P.C.



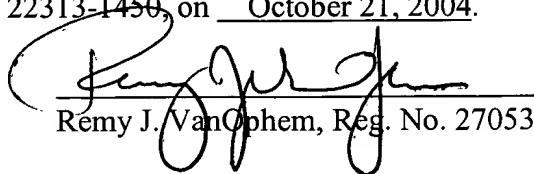
Remy J. VanOphem
Attorney for Applicant
Registration No. 27053

51543 Van Dyke Avenue
Suite 103
Shelby Township, MI 48316-4447
(586) 739-7445
Attorney Docket No. FTP139A US
RVO/ndt

Certificate under 37 CFR §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 21, 2004.

Date: October 21, 2004

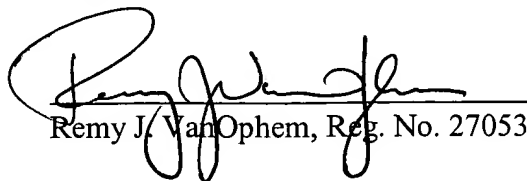


Remy J. VanOphem, Reg. No. 27053

Certificate of Facsimile Transmission

I hereby certify that this correspondence is being filed with the United States Patent Office by facsimile transmission to Examiner Carlos Lugo at facsimile number (703) 872-9306, on October 21, 2004.

Date: October 21, 2004



Remy J. VanOphem, Reg. No. 27053



The date of receipt at the Patent Office stamped hereon is acknowledgment of receipt of the following:

Type: Request for Rehearing

Serial No. 09/939,482

Filing Date: September 10, 1999

Inventor: Jerry H. Chisnell

Enclosing: Request for Rehearing, Fee Transmittal form, Transmittal, postcard

Attorney: ~~Doyle~~ ETP139A US

AUG 23 2004

ROBERT MEEHAN, P.C.

RECEIVED
BOARD OF PATENT APPEALS
AND INTERFERENCES

2004 AUG 19 PM 3:41

8/16/ldp



178

PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. 09/939,482 Appeal No. 2004-1326
Filing Date: September 9, 1999
Inventor: Jerry H. Chisnell
Title: Use of a Single or Multiple Ring Strategically Placed in a Hose Coupling to Reinforce Material Against Collapse

REQUEST FOR REHEARING
UNDER 37 CFR §1.197(b)

Board of Patent Appeals and Interferences
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Appellant respectfully requests from the Board of Patent Appeals and Interferences (Board), a rehearing and reconsideration of the Board's affirmance of the Examiner's rejection of claims 1-5, 11 and 12 in the present appeal proceeding. Appellant acknowledges receipt of the decision of the Board mailed on June 15, 2004.

By this request, Appellant desires to avoid a mere reargument of Appellant's position on appeal and desires to narrow and simplify Appellant's arguments to facilitate the Board's reversal of the rejections. Therefore, Appellant herein states with particularity only the points of law and fact believed to have been misapprehended or overlooked in rendering the decision. Nonetheless, Appellant hereby incorporates by reference the arguments previously submitted in Appellant's main brief on appeal.

Appellant notes that the Board sustained the Examiner's rejection of Appellant's claims 1-5, 11 and 12. The only other claims in the application are claims 6-10, which stand allowed.

Appellant asserts that claims 1-5, 11 and 12 are not anticipated by Joseph et al. as a matter of law and facts. Appellant respectfully asserts that the Board has erroneously misinterpreted the language of Appellant's independent claims on appeal and has misidentified the precise structural interrelationships of the mechanical elements disclosed in Appellant's application.

Appellant recognizes that during examination proceedings, claims are to be given their broadest reasonable interpretation, consistent with the specification. *See In re Hyatt*, 211 F.3d 1367, 54 USPQ2d 1664 (Fed. Cir. 2000). Appellant notes that the legal standard for anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the patent claim. *See Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick*, 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984). Moreover, to hold that the single prior art reference anticipates the patent claim, the Board must expressly find that every limitation in the claim is identically shown in the single prior art reference. *See Gechter v. Davidson*, 116 F.3d 1454, 1460, 43 USPQ2d 1030, 1035 (Fed. Cir. 1997).

Specifically, the Appellant requests reconsideration of the decision by the Board for the reasons that it appears from the opinion set forth, that the Board has misinterpreted the Appellant's remarks specifically with respect to the claim language which clearly defines the location of the reinforcing ring with respect to the unambiguous language of each of the independent claims. The independent claims 1 and 12 each require that the outer sleeve has "at

least one depression therein” formed by a crimping operation, “said at least one depression defining an area of peak crimp force of a predetermined longitudinal extent” and further, that “at least one reinforcing ring positioned within said inner diameter of said inner sleeve within said predetermined longitudinal extent defined by said area of peak crimp force.”

On page 4 of the Opinion, the Board concludes that this language does not limit the position of the enforcing ring entirely within the predetermined longitudinal extent defined by the area of peak crimp force. With reference to Appellant’s Brief at page 7 thereof, the ordinary and accustomed meaning of the claim term “within” was carefully set forth. Note that the definition that the ordinary and customary meaning of this term as set forth at page 7 of Appellant’s Brief, leaves no room for ambiguity in that if an element is inside the bounds of a region it is in within the region, and conversely if the element is outside the bounds of a region it is not within the region. Accordingly, the using of the claim term “within” a predetermined longitudinal extent defined by an area of peak crimp force does indeed require that the ring be positioned entirely, rather than partially, “within said predetermined longitudinal extent.”

It is obvious that the Board completely neglected this clear representation of the unambiguous meaning of the term “within” in order to justify its conclusion that the reinforcing ring is positioned partially “within said predetermined longitudinal extent defined by said area of peak crimp force,” (Claim 1). Although the term “entirely” is not used, there is absolutely no question that the unambiguous meaning of this claim language requires that the reinforcement ring be located entirely within the predetermined longitudinal extent defined by the area of peak crimp force. Therefore, in viewing the structure (and not function) of the Joseph et al. reference, there is absolutely no doubt to a person skilled in the art that the liner 28 as disclosed by Joseph et al. does not in any way reside entirely within the predetermined

longitudinal extent defined by an area of peak crimp force. It is absolutely clear to a person skilled in the art that the crimping force is significantly reduced beyond the depression caused by the crimping operation. Accordingly, a person skilled in the art will quickly recognize there is absolutely no need to utilize a reinforcing ring which extend outside of the area of peaked crimp force as is structurally disclosed in the Joseph et al. reference. The liner 28 extends well beyond the depressions made by the crimping operation and accordingly, that portion of the liner has absolutely no effect in terms of reinforcing the inner sleeve of the coupling and is waste in terms of costs and weight considerations. It is this precise point that is made very clear by the language in Appellant's claims to structurally define unambiguously over the structure disclosed in the Joseph et al. reference.

It is clearly understood by the Appellant that during examination proceedings, claims are given their broadest reasonable interpretation consistent with the specification. However, I believe the Board went beyond reasonableness by interpreting Appellant's independent claims completely inconsistent with the Appellant's specification and drawing disclosure. After all, it is clear that neither Appellant's specification nor drawings show disclosure wherein the reinforcing rings 20 extend beyond the longitudinal extent of the depressions caused by the crimping operations. Apparently the Board feels that Figure 2 which shows three crimping grooves is its justification for determining that the independent claims should be interpreted as encompassing an embodiment wherein the reinforcing ring is partially positioned within the predetermined longitudinal extent defined by the area of peak crimp force. This is completely inconsistent with the clear disclosure set forth on page 9 of the specification which unambiguously sets forth that the crimping method also creates an area of peak crimp force 36 that ordinarily results in narrowing or collapsing of the inner sleeve 40.

Please note in Figure 2 that reference character 36 designates this area of peak crimp force and both reinforcing rings are well within the predetermined longitudinal extent defined by the area of peak crimp force 36. Also note that on page 9 the disclosure further sets forth that "that corresponding reinforcing link 20 is then designed and strategically placed inside the inner sleeve concentric with a predetermined area of peak crimp force 36. Accordingly, the Board incorrectly, interprets the illustration of Figure 2, in that, Figure 2 is completely consistent with the language of the claims such that the reinforcing rings are indeed entirely contained within the predetermined longitudinal extent defined by the area of peak crimp force. Clearly in Appellant's disclosure the reinforcing ring does not longitudinally extend across the entire area of the inner sleeve as is clearly disclosed in Joseph et al. Accordingly, the unambiguous language that sets forth that the reinforcing ring must be entirely within the predetermined longitudinal extent defined by the area of peak crimp force is indeed not only supported in the unambiguous language of the specification but also clearly illustrated in Figure 2. To conclude that, even with the narrow interpretation of the independent claims, the independent claims define a coupling product which is indistinguishable from the coupling product of Joseph et al. with respect to the feature or characteristic under consideration is entirely incorrect because the rejection is one of anticipation and not one of obviousness. Clearly, the objective of the coupling of Joseph et al. as well as Appellant's objective are similar, in that, each attempts to provide reinforcement to the inner sleeve of the coupling. The difference lies in how this reinforcement is accomplished structurally so as ensure integrity and long term durability of the coupling. For the Board to conclude that even if it interpreted the independent claims narrowly the appealed independent claims would define a coupling product which is indistinguishable from the coupling product of Joseph et al. with respect to the feature or

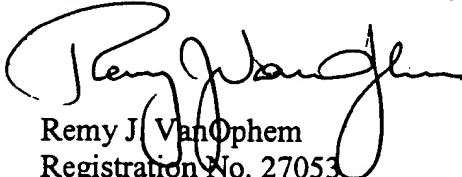
characteristic under consideration, namely, the ring being positioned entirely within the longitudinal extent defined by the area of peak crimp force is absolutely incorrect based not only on the clear unambiguous claim language but also the disclosure itself when viewed by a person ordinarily skilled in the art.

It is clear to a person ordinarily skilled in the art that prior art reinforcements such as those shown in Joseph et al. undergo beam deflection during a crimping operation while reinforcing rings which are strategically located only where absolutely necessary that is, in the area of peak crimp force undergo virtually no beam deflection whatsoever. Such conclusion need not be based on an affidavit but is clearly well within the realm of an ordinary engineer who designs the type of couplings discussed in both Joseph et al. and Appellant's disclosure. Therefore, Appellant does not believe it is necessary that proof be submitted with respect to the manufacturing of these products because the Patent Office is unable to manufacture such products or to obtain or compare prior art products. Certainly, even if they were able to do that the decision is not with the Patent Office to make such comparison but the decision lies with the person skilled in the prior art of couplings to determine whether the structures associated with each of the couplings would indeed provide the advantages disclosed in each of the specifications. Frankly, the specification speaks for itself and to a person of ordinary skill in the art and it does indeed clearly set forth the structural requirements of the invention which provide the advantages associated therewith. On page 7 of the Decision, the Board concludes by setting forth functional features which are provided by the prior art indicating that these are similar to Appellant's coupling. Frankly, it is clearly understood that functionally I believe that Appellant and the prior art are attempting to acquire a more structurally sound coupling that does not collapse during crimping. Accordingly, Joseph et al.

has been mentioned as the prior art in the background of the current specification as providing an aluminum tubular liner. Accordingly, it is well recognized by the Appellant that the functional aspects of this coupling are identical in both the prior art as well as Appellant's specification. The issue frankly is one of anticipation and accordingly, the fact that the functional features are identical should have absolutely no weight with respect to an anticipation argument. Accordingly, it is respectfully requested that for the reasons set forth above, that this honorable Board reconsider its position with respect to the rejection of claims 1-5, 11 and 12 as being anticipated by Joseph et al.

Respectfully submitted,

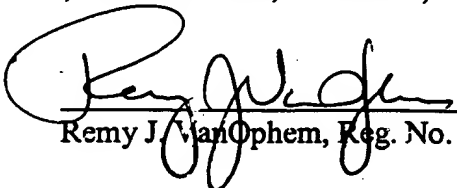
VANOPHEM & VANOPHEM, P.C.


Remy J. VanOphem
Registration No. 27053

51543 Van Dyke Ave.
Suite 103
Shelby Twp., MI 48313
(586) 739-7445
Attorney Docket No. FTP139A US

Certificate under 37 CFR §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Board of Patent Appeals and Interferences, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, on 8/16/04.


Remy J. VanOphem, Reg. No. 27053